

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN ASSEMBLY JUNE 29, 2011

AMENDED IN SENATE MAY 24, 2011

SENATE BILL

No. 140

Introduced by Senator Lowenthal

January 31, 2011

An act to add and repeal Sections ~~60209, 60227.5, 60227.5~~ and 60605.86 of the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as amended, Lowenthal. Instructional materials and academic content standards.

(1) Existing law requires the State Board of Education to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, and authorizes the state board to establish criteria for that purpose. Existing law requires the state board in reviewing and adopting instructional materials to use specified criteria and ensure that, in its judgment, the submitted instructional materials meet all of the specified criteria.

This bill would require the State Department of Education to *provide specified notice to publishers and manufacturers before commencing the adoption process for 8th grade mathematics instructional materials. This bill would require the department to* assess a fee on each publisher or manufacturer that chooses to participate in the 8th grade mathematics instructional materials adoption process, and would require the fee to comply with specified requirements. ~~The bill would require the department to provide specified notice to publishers and manufacturers before commencing the adoption process for 8th grade mathematics~~

~~instructional materials.~~ The bill would prohibit a publisher or manufacturer's 8th grade mathematics instructional materials from being reviewed for purposes of adoption until the fee is paid in full. The bill would authorize the department to reduce the fee for participation in the 8th grade mathematics instructional materials adoption process upon the request of a small publisher or manufacturer, as defined. The bill would require the adoption of 8th grade mathematics instructional materials by the state board in accordance with this adoption process to be considered the adoption of instructional materials that are aligned to the common core academic content standards for 8th grade mathematics.

(2) Existing law establishes the Academic Content Standards Commission, and requires the commission to develop academic content standards in language arts and mathematics and to present its recommended academic content standards to the State Board of Education. Existing law requires at least 85% of these standards to be the common core academic standards developed by the Common Core State Standards Initiative consortium or any associated or related interstate collaboration. Existing law requires the state board to adopt or reject the academic content standards. Existing law exempts instructional materials that are aligned to these standards from the requirement that the state board adopt any additional criteria that instructional materials will be required to meet at least 30 months before the materials are to be approved for adoption.

This bill would require the State Department of Education, on a ~~one time~~ *one-time* basis, to develop a list, on or before July 1, 2012, of supplemental instructional materials for use in kindergarten and grades 1 to 8, inclusive, that are aligned with California's common core academic content standards in language arts and mathematics. The bill would require the state board *to perform specified reviews and* to either approve or reject the supplemental instructional materials as proposed by the department. The bill also would permit the governing ~~boards~~ *board of a school district* ~~district~~ to approve supplemental instructional materials other than those approved by the state board if the governing board *performs specified reviews and* determines that other supplemental instructional materials are aligned with the common core academic content standards and meet the needs of the pupils of the district. *The bill would require supplemental instructional materials approved by the state board and the governing board of a school district in the subject areas of mathematics and English language arts to be reviewed*

by content review experts, as specified. The bill would also require supplemental instructional materials to comply with specified social content review requirements. The bill would require the department to maintain on its Internet Web site a list of supplemental instructional materials approved by the state board.

~~This bill would also require the department to recommend, and the state board to approve, content review experts to review, in an open and transparent process, instructional materials submitted for approval in the subject areas of mathematics and English language arts, as specified.~~

(3) The provisions of the bill would become inoperative on July 1, 2014, and would be repealed on July 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California and 40 other states have adopted common core
4 academic content standards in language arts and mathematics to
5 provide consistent and clear expectations of what pupils need to
6 learn to compete in a global economy.

7 (b) Eighty-five percent of the standards are common across the
8 nation, with 15 percent being unique to California.

9 (c) It is the intent of the Legislature that the state collaborate
10 with other states in the development of instructional materials to
11 realize efficiencies, particularly for the 85 percent of the standards
12 that are common across the nation.

13 ~~SEC. 2. Section 60209 is added to the Education Code, to read:~~

14 ~~60209. (a) The department shall recommend, and the state~~
15 ~~board shall approve, content review experts. The content experts~~
16 ~~shall review, in an open and transparent process, instructional~~
17 ~~materials submitted for approval in the subject areas of~~
18 ~~mathematics, including, but not limited to, 8th grade mathematics,~~
19 ~~and English language arts.~~

20 ~~(b) The majority of content review experts approved pursuant~~
21 ~~to subdivision (a) shall be teachers who are credentialed in the~~
22 ~~subject area they are reviewing. The content review experts shall~~
23 ~~also include appropriate persons from postsecondary institutions,~~

~~school and school district curriculum administrators, and other persons who are knowledgeable in the appropriate subject area.~~

~~(e) Content review experts shall serve without compensation.~~

~~(d) This section shall become inoperative on July 1, 2014, and, as of July 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before July 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 3.~~

SEC. 2. Section 60227.5 is added to the Education Code, to read:

60227.5. (a) Before commencing the adoption process for 8th grade mathematics instructional materials, the department shall provide notice, pursuant to subdivision (c), in all of the following manners:

(1) Provide notice to all publishers and manufacturers known to produce basic instructional materials for 8th grade mathematics.

(2) Post an appropriate notice on the department's Internet Web site.

(3) Take other reasonable measures to ensure that appropriate notice is widely circulated to potentially interested publishers and manufacturers.

(b) The notice provided pursuant to subdivision (a) shall specify that each publisher or manufacturer choosing to participate in the 8th grade mathematics instructional materials adoption process shall be assessed a fee pursuant to subdivision (d).

(c) The department, prior to incurring substantial costs for the ~~adoption process~~ of 8th grade mathematics instructional materials *adoption process*, shall require a publisher or manufacturer that wishes to participate in the 8th grade mathematics instructional materials adoption process to first declare their intent to submit one or more specific instructional materials for adoption.

(d) (1) The department shall assess a fee on each publisher or manufacturer that chooses to participate in the 8th grade mathematics instructional materials adoption process, which shall comply with all of the following:

(A) The fee shall be based on the number of instructional materials that the publisher or manufacturer indicates they will submit for review.

(B) The fee shall be an amount that does not exceed the reasonable costs to the department in conducting the 8th grade

1 mathematics instructional materials adoption process and the
2 department shall take reasonable steps to limit the costs of the 8th
3 grade mathematics instructional materials adoption process and
4 to keep the fee modest, recognizing that some of the work
5 necessary for the primary adoption of instructional materials need
6 not be duplicated.

7 (C) The department shall assess the fee after the publisher or
8 manufacturer complies with subdivision (c).

9 (D) The fee shall be payable by the publisher or manufacturer
10 even if the publisher subsequently chooses to withdraw an
11 instructional material for adoption.

12 (2) The submission of an instructional material by a publisher
13 or manufacturer shall not be reviewed for purposes of adoption
14 until the fee assessed pursuant to this subdivision is paid in full.

15 (e) It is the intent of the Legislature that the fee assessed
16 pursuant to subdivision (d) not be so substantial that it prevents
17 publishers and manufacturers from participating in the 8th grade
18 mathematics instructional materials adoption process.

19 (f) (1) Upon the request of a small publisher or manufacturer,
20 the department may reduce the fee for participation in the 8th grade
21 mathematics instructional materials adoption process.

22 (2) For purposes of this section, “small publisher” or “small
23 manufacturer” means an independently owned or operated
24 publisher or manufacturer that is not dominant in its field of
25 operation, and that, together with its affiliates, has 100 or fewer
26 employees, and has average annual gross receipts of ten million
27 dollars (\$10,000,000) or less over the previous three years.

28 (g) Notwithstanding subdivision (b) of Section 60200, if the
29 department determines that there is little or no interest in
30 participating in the 8th grade mathematics instructional materials
31 adoption process by publishers and manufacturers, it shall
32 recommend to the state board that the 8th grade mathematics
33 instructional materials adoption process should not be conducted,
34 and the state board may decide to not conduct the 8th grade
35 mathematics instructional materials adoption process.

36 (h) Revenue derived from fees charged pursuant to subdivision
37 (d) shall be budgeted as reimbursements and subject to review
38 through the annual budget process and may be used to pay costs
39 associated with the 8th grade mathematics instructional materials
40 adoption process.

(i) The adoption of 8th grade mathematics instructional materials by the state board in accordance with the adoption process described in this section shall be considered the adoption of instructional materials that are aligned to the common core academic content standards for 8th grade mathematics.

(j) This section shall become inoperative on July 1, 2014, and, as of July 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before July 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 4.~~

SEC. 3. Section 60605.86 is added to the Education Code, to read:

60605.86. (a) Notwithstanding any other law, and on a one-time basis, the department shall develop a list, on or before July 1, 2012, of supplemental instructional materials for use in kindergarten and grades 1 to 8, inclusive, that are aligned with California's common core academic content standards in language arts and mathematics. The supplemental instructional materials shall provide a bridge between the common core academic content standards and the standards-aligned instructional materials currently being used by local educational agencies.

(b) (1) *The department shall recommend, and the state board shall approve, content review experts to review, in an open and transparent process, supplemental instructional materials submitted for approval in the subject areas of mathematics, including, but not limited to, 8th grade mathematics, and English language arts.*

(2) *The majority of content review experts approved pursuant to paragraph (1) shall be teachers who are credentialed in the subject area they are reviewing. The content review experts shall also include appropriate persons from postsecondary institutions and school and school district curriculum administrators, and other persons who are knowledgeable in the appropriate subject area.*

(3) *The content review experts shall serve without compensation.*

~~(b)~~

(c) On or before September 30, 2012, the state board shall do either of the following:

(1) Approve the supplemental instructional materials as proposed by the department.

(2) Reject the supplemental instructional materials as proposed by the department. If the state board rejects the supplemental instructional materials, it shall provide a specific written explanation to the Superintendent, the Governor, and the Legislature of the reasons why the proposed materials were rejected.

~~(e)~~

(d) (1) The governing boards of school districts may approve supplemental instructional materials other than those approved by the state board pursuant to subdivision ~~(b)~~ (c) if the governing board determines that other supplemental instructional materials are aligned with the common core academic content standards and meet the needs of the pupils of the district. The governing board of a school district may only approve supplemental instructional materials that comply with the requirements of Section 60226 and Article 3 (commencing with Section 60040), subdivision (g) of this section, and Article 4 (commencing with Section 60060).

(2) (A) A supplemental instructional material approved by a governing board of a school district pursuant to this subdivision that is in the subject area of mathematics or English language arts shall be reviewed by content review experts chosen by the governing board.

(B) The majority of the content review experts chosen pursuant to subparagraph (A) shall be teachers who are credentialed in the subject area they are reviewing. The content review experts shall include appropriate persons from postsecondary institutions and school and school district curriculum administrators, and other persons who are knowledgeable in the appropriate subject area.

(C) The content review experts shall serve without compensation.

~~(d)~~

(e) Publishers choosing to submit supplemental instructional materials for approval by the state board shall submit standards maps. Publishers choosing to submit supplemental instructional materials for approval for use in grades 9 to 12, inclusive, are encouraged to submit standards maps.

~~(e)~~

(f) (1) Before approving supplemental instructional materials pursuant to this section, the state board, or the governing board of a school district that chooses to approve supplemental instructional

1 ~~materials pursuant to subdivision (e);~~ shall review those
2 instructional materials for academic content, social content, and
3 instructional support to teachers and pupils. Supplemental
4 instructional materials approved *by the state board* pursuant to
5 this section shall meet required program criteria for grade-level
6 programs, intervention programs, and English learners and shall
7 include materials for use by teachers.

8 *(2) Before approving supplemental instructional materials*
9 *pursuant to this section, the governing board of a school district*
10 *shall review those instructional materials for academic content*
11 *and instructional support to teachers and pupils. Supplemental*
12 *instructional materials approved by the governing board of a*
13 *school district pursuant to this section shall meet required program*
14 *criteria for grade-level programs, intervention programs, and*
15 *English learners, and shall include materials for use by teachers.*

16 *(g) Supplemental instructional materials approved pursuant to*
17 *this section shall comply with the social content review*
18 *requirements that would be imposed by Assembly Bill 339 of the*
19 *2011–12 Regular Session if that bill becomes operative; otherwise,*
20 *the governing board of a school district shall review supplemental*
21 *instructional materials for social content in compliance with Article*
22 *3 (commencing with Section 60040).*

23 ~~(f)~~

24 *(h) The department shall maintain on its Internet Web site the*
25 *list of supplemental instructional materials approved by the state*
26 *board pursuant to subdivision (b).*

27 ~~(g)~~

28 *(i) This section shall become inoperative on July 1, 2014, and,*
29 *as of July 1, 2015, is repealed, unless a later enacted statute, that*
30 *becomes operative on or before July 1, 2015, deletes or extends*
31 *the dates on which it becomes inoperative and is repealed.*